

LDEQ RECEIPT

2007 MAY 8 PM 3 51
STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

M.M.I. LOUISIANA, INC.

AI # 19568

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.**

* Settlement Tracking No.
* SA-WE-07-0001
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* Enforcement Tracking No.
* WE-PP-04-1143
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SETTLEMENT

The following Settlement is hereby agreed to between M.M.I. Louisiana, Inc. ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation who operates a motel facility at 10455 Reiger Road in Baton Rouge, East Baton Rouge Parish, Louisiana ("the Facility").

II

On June 13, 2006, the Department issued a Notice of Potential Penalty, Enforcement No. WE-PP-04-1143, to Respondent, which was based upon the following findings of fact:

On or about November 10, 2005, a file review of Holiday Inn East, owned and/or operated by Respondent, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Water Regulations.

The Respondent was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAG570000 on December 4, 1997, and specifically was assigned permit number LAG570038. The permit expired on September 30, 2002, and was administratively extended. The permit was reissued to the Respondent on May 16, 2005. The Department received correspondence on July 22, 2005, to relinquish and transfer responsibility of LPDES permit LAG570038 to Siegan Lane Investments, L.L.C. The new owner and/or operator, Siegan Lane Investments, L.L.C., accepted responsibility for the facility on or about January 9, 2004. LPDES permit LAG570038 was transferred to Seigen Lane Investments, L.L.C. effective November 29, 2005. Under the terms and conditions of the LPDES permit, the Respondent was authorized to discharge treated sanitary wastewater from Outfall 001 into a roadside ditch, thence into Clay Cut Bayou, thence into Bayou Manchac, all waters of the state.

The following violations were noted during the course of the file review:

- A. A file review conducted by the Department on or about February 2, 2006, revealed that the Respondent failed to submit Discharge Monitoring Reports (DMR) to the Department for the following monitoring periods: April, May, and June of 2001, and January, February, and March of 2005. Each failure to submit DMRs is a violation of LPDES permit LAG570038 (Part I, Section C, and Part III, Sections A.2 and D.4), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2701.A, and LAC 33:IX.2701.L.4.a.
- B. A file review conducted by the Department on or about February 2, 2006, revealed the Respondent exceeded effluent limitations. These effluent excursions, as reported by the Respondent on Discharge Monitoring Reports (DMRs), are summarized below:

Date	Parameter	Permit Limit	Reported Value
March 2001	TSS (mon avg)	15 mg/L	17 mg/L
	Fecal Coliform (mon avg)	200 col/100 ml	2,000 col/100 ml
	Fecal Coliform (wkly avg)	400 col/100 ml	2,000 col/100 ml

Date	Parameter	Permit Limit	Reported Value
August 2001	BOD ₅ (mon avg)	10 mg/L	85.5 mg/L
	BOD ₅ (wkly avg)	15 mg/L	168 mg/L
	TSS (mon avg)	15 mg/L	23 mg/L
October 2001	Fecal Coliform (mon avg)	200 col/100 ml	2,000 col/100 ml
	Fecal Coliform (wkly avg)	400 col/100 ml	2,000 col/100 ml
December 2001	Fecal Coliform (mon avg)	200 col/100 ml	290 col/100 ml
October 2002	TSS (mon avg)	15 mg/L	33 mg/L
	TSS (wkly avg)	23 mg/L	33 mg/L
November 2002	TSS (mon avg)	15 mg/L	21.4 mg/L
December 2002	TSS (mon avg)	15 mg/L	44 mg/L
	TSS (wkly avg)	23 mg/L	44 mg/L
January 2003	TSS (mon avg)	15 mg/L	38.6 mg/L
	TSS (wkly avg)	23 mg/L	38.6 mg/L
February 2003	TSS (mon avg)	15 mg/L	140 mg/L
	TSS (wkly avg)	23 mg/L	140 mg/L
April 2003	Fecal Coliform (mon avg)	200 col/100 ml	980 col/100 ml
	Fecal Coliform (wkly avg)	400 col/100 ml	980 col/100 ml
May 2003	Fecal Coliform (mon avg)	200 col/100 ml	830 col/100 ml
	Fecal Coliform (wkly avg)	400 col/100 ml	830 col/100 ml
June 2003	BOD ₅ (mon avg)	10 mg/L	12.8 mg/L
	TSS (mon avg)	15 mg/L	21 mg/L
July 2003	Fecal Coliform (mon avg)	200 col/100 ml	1,360 col/100 ml
	Fecal Coliform (wkly avg)	400 col/100 ml	1,360 col/100 ml
September 2003	Fecal Coliform (mon avg)	200 col/100 ml	320 col/100 ml
November 2003	TSS (mon avg)	15 mg/L	36.5 mg/L
	TSS (wkly avg)	23 mg/L	43 mg/L
	Fecal Coliform (mon avg)	200 col/100 ml	1,055 col/100 ml
	Fecal Coliform (wkly avg)	400 col/100 ml	>2,000 col/100 ml
January 2004	TSS (mon avg)	15 mg/L	62 mg/L
	TSS (wkly avg)	23 mg/L	62 mg/L
February 2004	BOD ₅ (mon avg)	10 mg/L	172 mg/L
	BOD ₅ (wkly avg)	15 mg/L	172 mg/L
	TSS (mon avg)	15 mg/L	48 mg/L
	TSS (wkly avg)	23 mg/L	48 mg/L
March 2004	TSS (mon avg)	15 mg/L	59 mg/L
	TSS (wkly avg)	23 mg/L	59 mg/L

Date	Parameter	Permit Limit	Reported Value
April 2004	BOD ₅ (mon avg)	10 mg/L	15.6 mg/L
	BOD ₅ (wkly avg)	15 mg/L	15.6 mg/L
	TSS (mon avg)	15 mg/L	31 mg/L
	TSS (wkly avg)	23 mg/L	31 mg/L
	Fecal Coliform (mon avg)	200 col/100 ml	2,000 col/100 ml
	Fecal Coliform (wkly avg)	400 col/100 ml	2,000 col/100 ml
May 2004	TSS (mon avg)	15 mg/L	29.5 mg/L
	TSS (wkly avg)	23 mg/L	29.5 mg/L
	Fecal Coliform (mon avg)	200 col/100 ml	>2,000 col/100 ml
	Fecal Coliform (wkly avg)	400 col/100 ml	>2,000 col/100 ml
June 2004	TSS (mon avg)	15 mg/L	18.4 mg/L
July 2004	TSS (mon avg)	15 mg/L	20.5 mg/L
	Fecal Coliform (mon avg)	200 col/100 ml	TNTC* col/100 ml
	Fecal Coliform (wkly avg)	400 col/100 ml	TNTC* col/100 ml
August 2004	TSS (mon avg)	15 mg/L	59.7 mg/L
	TSS (wkly avg)	23 mg/L	59.7 mg/L
	Fecal Coliform (mon avg)	200 col/100 ml	TNTC* col/100 ml
	Fecal Coliform (wkly avg)	400 col/100 ml	TNTC* col/100 ml
October 2004	TSS (mon avg)	15 mg/L	20 mg/L
June 2005	TSS (mon avg)	15 mg/L	18.1 mg/L
	Fecal Coliform (mon avg)	200 col/100 ml	>2,000 col/100 ml
	Fecal Coliform (wkly avg)	400 col/100 ml	>2,000 col/100 ml

*TNTC means Too Numerous To Count

Each effluent excursion constitutes a violation of LPDES permit LAG570038 (Part I, Section B and Part III Section A.2), La. R.S. 30:2076(A)(1), La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2701.A.

- C. A file review conducted by the Department on or about February 2, 2006, revealed the Respondent failed to sample its effluent for the monitoring period of December 2003 and September of 2005. Each failure to sample the effluent is a violation of LPDES permit LAG570038 (Part I Section B, Part III, Sections A.2, and C.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2701.A.

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of EIGHT THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$8,500.00) of which Three Hundred Eighty-two and 77/100 Dollars (\$382.77) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), the Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in East Baton Rouge Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

IX

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

X

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XI

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

M.M.I. LOUISIANA, INC.

BY: [Signature]
(Signature)
JAMES E. HART
(Print)

TITLE: V.P. Admin.

THUS DONE AND SIGNED in duplicate original before me this 5th day of April, 20 07, at 1000 Red Fern Pl., Flowood, MS

[Signature]
NOTARY PUBLIC (ID #)
MISSISSIPPI STATEWIDE NOTARY PUBLIC
MY COMMISSION EXPIRES SEPT. 25, 2009
BONDED THRU STEGALL NOTARY SERVICE
Sheila R. Willoughby
(Print)

**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**
Mike D. McDaniel, Ph.D., Secretary

BY: [Signature]
Harold Leggett, Ph.D., Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 28th day of June, 20 07, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 23590)
Diana C. King
(Print)

Approved: [Signature]
Harold Leggett, Ph.D., Assistant Secretary